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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,721	07/15/2004	Ralf Neuhaus	2002P00503WOUS	4880

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Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

EXAMINER

ANWARI, MACEEH

ART UNIT	PAPER NUMBER
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2144

MAIL DATE	DELIVERY MODE
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08/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/501,721

Applicant(s)

NEUHAUS ET AL.

Examiner

Maceeh Anwari

Art Unit

2144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/15/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the initial Office action based on the 10/501,721 application filed on 7/14/2004. Claims 10-27, as originally filled, are currently pending and have been considered below.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 10-22 are rejected under 35 U.S.C. 101 because the claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, functional descriptive material *per se*.

Descriptive material can be characterized as either "functional descriptive material" or "non-functional descriptive material." Both types of "descriptive material" are non-statutory when claimed as descriptive material *per se*, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)

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Merely claiming non-functional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because “[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer.”).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 17 and 20-21 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. Applicant's specification lacks the proper teachings that is critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). Applicant claims "...a visual indication and/or for storage and/or for forwarding to other components..." however the applicant does not describe within the specification all three scenarios of "and" and "or" and "and/or". The essentials to making of applicant's invention are not set forth within the specification. It would require undue experimentation for one of ordinary skill in the networking art at the time the invention was made to determine the details of how receive digital encoded media data.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 12-13, 16, 21 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The terms "predetermined...address(es)" is vague and indefinite because it is unclear what the actual limitation would be. The examiner will interpret "predetermined...address(es)" as having a set of addresses within a given network.

7. Claims 19 and 26 -27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "stipulated intervals of time" is vague and indefinite because it is unclear what sets the "stipulate intervals of time" apart from any other "time". The examiner will interpret this to simply mean any interval of time.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 10-27 are rejected under 35 U.S.C. 102(b) as being anticipated by MCI Communications Corporation (hereinafter MCI), International Publication No.: WO 99/17523 A1.

MCI teaches:

Claim 10. An arrangement, comprising: components which can be addressed in a communication network (Figures 1-4 and Abstract & Page 1 lines 24-26; reads on this limitation by mentioning telecommunications system, call center and agents therein), wherein a component can be monitored by at least one other component (Figures 8-11 and Abstract & Page 1 lines 24-26; reads on this limitation by mentioning various event types and agent identification information), wherein a monitoring instruction is given by a monitoring component (Figures 3 & 8-11 and Abstract & Page 1 lines 24-26; reads on this limitation by mentioning various event types, agent identification information and a monitoring system), the instruction comprising the address of this monitoring component (Figures 8-11 and Abstract & Page 1 lines 24-26; reads on this limitation by mentioning various event types and various attributes of agents), wherein each monitorable and monitoring component has communication mechanisms for direct data interchange monitored (Figures 3-4 Abstract and Page 1 lines 24-26; reads on this limitation by mentioning connection between a monitoring system and a server), wherein the monitoring component transmits the monitoring instruction directly to the component which is to be monitored (Figures 3-4 Abstract and Page 1 lines 24-26; reads on this limitation by mentioning connection between a monitoring system and a server), and wherein each monitorable component has a storage mechanism for the addresses being in the monitoring instructions and a monitoring mechanism for state monitoring which, at least in the event of a change of state, transfers a state to be monitored directly to the monitoring

component using the communication mechanisms (Figure 2 Abstract and Page 1 lines 24-26; reads on this limitation by mentioning secondary storage and gathering of status information and statistics).

Claim 11. Wherein the communication network is a packet switched network (Abstract and Page 1 lines 24-26 & Page 5 lines 12-13 & Page 6 lines 15-17; reads on this limitation by mentioning various types of networks and specifically Ethernet LANs).

Claim 12. Wherein the number of addresses which can be registered in a storage mechanism are predetermined (Figures 8- 11 and Abstract; reads on this limitation by stating various event types and agent attributes).

Claim 13. Wherein the number of addresses which can be registered in a storage mechanism are predetermined (Figures 8- 11 and Abstract; reads on this limitation by stating various event types and agent attributes).

Claim 14. Wherein the monitoring instruction comprises information about which changes of state are to be transferred (Figures 8- 11 and Page 8 lines 8-23; reads on this limitation by stating various event types and agent attributes).

Claim 15. Wherein the monitoring instruction comprises information about which changes of state are to be transferred (Figures 8-11 and Page 8 lines 8-23; reads on this limitation by stating various event types and agent attributes).

Claim 16. Wherein the monitoring instruction comprises information about which changes of state are to be transferred (Figures 8-11 and Page 8 lines 8-23; reads on this limitation by stating various event types and agent attributes).

Claim 17. Wherein the monitoring component uses the information about states or changes of state for visual indication and/or for storage and/or for forwarding to other components (Figures 13-20 and Page 3 line 27- Page 4 line12 & Page 8 lines 8-26; reads on this limitation by mentioning GUIs).

Claim 18. Wherein the monitored component can disable monitoring by individual or all monitoring components (Figure 6-7 & 9A and Page 2 lines 20-25; reads on this limitation by mentioning login/out times and available/unavailable times).

Claim 19. Wherein, in cases in which a monitoring instruction cannot be transmitted, the monitoring component outputs a corresponding indicator and makes a fresh transmission attempt at stipulated intervals of time (Figures 6-11 and Page 8 lines 8-23; reads on this limitation by mentioning login/out times and available/unavailable times).

Claim 20. Wherein the monitoring component uses the information about states or changes of state for visual indication and/or for storage and/or for forwarding to other components (Figures 13-20 and Page 3 line 27- Page 4 line12 & Page 8 lines 8-26; reads on this limitation by mentioning GUIs, pop-up windows and display information).

Claim 21. Wherein the monitoring component uses the information about states or changes of state for visual indication and/or for storage and/or for forwarding to other components (Figures 13-20 and Page 3 line 27- Page 4 line12 & Page 8

lines 8-26; reads on this limitation by mentioning GUIs, pop-up windows and display information).

Claim 22. Wherein the information about the transmittability of the monitoring instruction can be used to determine a corresponding state for the component which is to be monitored (Figures 8-11 and Page 8 lines 8-23; reads on this limitation by mentioning agent states, and various other event types).

Claim 23. A method for obtaining information about a state or a change of state in a component which is to be monitored and which is part of an arrangement having addressable components which are connected in the communication network, the method comprising: monitoring the component by at least one other component (Figures 8-11 and Abstract & Page 1 lines 24-26; reads on this limitation by mentioning various event types and agent identification information); commissioning a monitoring instruction by a monitoring component, wherein the instruction comprises the address of the monitoring component (Figures 8-11 and Abstract & Page 1 lines 24-26; reads on this limitation by mentioning various event types and various attributes of agents); directly interchanging data between the monitored and monitoring components monitored (Figures 3-4 Abstract and Page 1 lines 24-26; reads on this limitation by mentioning connection between a monitoring system and a server); directly transmitting the monitoring instruction by the monitoring component to the component which is to be monitored (Figures 3-4 Abstract and Page 1 lines 24-26; reads on this limitation by mentioning connection between a monitoring system and a server);

storing the address of each monitoring component by each monitored component (Figure 2 Abstract and Page 1 lines 24-26; reads on this limitation by mentioning secondary storage and gathering of status information and statistics); monitoring its own state by each monitored component (Figures 8-11 and Page 8 lines 8-23; reads on this limitation by mentioning agent states, and various other event types); and transferring the state to the monitoring component at least in the event of a change of state (Figures 8-11 and Page 8 lines 8-23; reads on this limitation by mentioning agent states, and various other event types).

Claim 24. Further comprising: predetermining the number of addresses which can be registered in a storage mechanism (Figures 8- 11 and Abstract; reads on this limitation by stating various event types and agent attributes).

Claim 25. Further comprising: canceling the monitoring by the monitored component (Figure 6-7 & 9A and Page 2 lines 20-25; reads on this limitation by mentioning login/out times and available/unavailable times).

Claim 26. Further comprising: in cases in which a monitoring instruction cannot be transmitted, outputting a corresponding indicator by the monitoring component; and performing a fresh transmission attempt at stipulated intervals of time (Figures 6-11 and Page 8 lines 8-23; reads on this limitation by mentioning login/out times and available/unavailable times).

Claim 27. Wherein the information about the ability to transmit the monitoring instruction is used to determine a corresponding state for the component which is

to be monitored (Figures 8-11 and Page 8 lines 8-23; reads on this limitation by mentioning agent states, and various other event types).

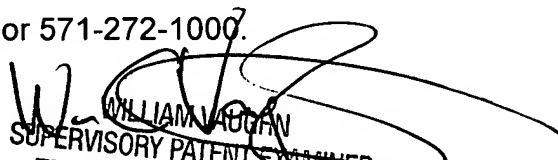
Examiner Note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in its entirety as potentially teaching of all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maceeh Anwari whose telephone number is 571-272-7591. The examiner can normally be reached on Monday-Friday 7:30-5:00 PM ES.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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